

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

~~August 30, 2004~~

IN RE:

PETITION FOR EXPEDITED REVIEW OF CENTRAL
OFFICE CODE DENIAL BY THE NUMBER POOLING
ADMINISTRATOR RELATING TO METHODIST
LEBONHEUR HEALTHCARE

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DOCKET NO.
04-00182

ORDER APPROVING PETITION
FOR EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate, and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 26, 2004, for consideration of the *Petition for Expedited Review of Central Office Code Denial* relating to Methodist LeBonheur Healthcare filed by BellSouth Telecommunications Inc. ("BellSouth") on June 18, 2004.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."¹ Among other things, the FCC adopted a mandatory

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"), see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis").

utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission,” for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁴ NeuStar, which was also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. In order to facilitate efficient telecommunications services in the Memphis Metropolitan Area, the 901 area code was converted to thousand-block number pooling on June 10, 2002. Thus, telecommunications service providers participating in number pooling in the 901 area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 901 NPA is the Fourth Quarter of 2015.

On June 11, 2004, BellSouth submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned an NXX code necessary to meet the demands of its customer, Methodist LeBonheur Healthcare (“Methodist”). BellSouth’s application was for a Central Office Code in the 901 NPA to fulfill Methodist’s request of 5,000 consecutive numbers for the purpose of installing SL100/SS7 service, switching, and expanding services for six hospitals as

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98

³ See 47 C.F.R. § 52.15(a), see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator)

⁴ In the *Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”), see also 47 C.F.R. § 52.15(a)

well as its virtual campus expansion and growth. BellSouth did not have sufficient number resources available in the Memphis Rate Center to fulfill Methodist's request.

The Pooling Administrator, citing BellSouth's failure to meet its NXX Assignment Guidelines, denied BellSouth's request on June 11, 2004. The guidelines require that a rate center must have a 70% utilization rate and that its estimated exhaust date not exceed six months. BellSouth met the utilization rate guideline because the Memphis Rate Center has a 91.63% utilization rate. The second guideline was not met because the Memphis Rate Center has a 76.6 month projected exhaust date.

On June 18, 2004, BellSouth filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. BellSouth asserts that its inability to supply Methodist with the requested numbers prevents BellSouth from providing the quality of service its customers expect.⁵ BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the NeuStar Administration's denial of BellSouth's application is authorized by the FCC.⁶ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid Central Office in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of

⁵ *Id.* at 6-7

⁶ *Third Report and Order*, ¶ 61, *see also* 47 C.F.R. § 54.15(g)(3)(iv).

these specifically enumerated instances.⁷

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁸

At a regularly scheduled Authority Conference held on July 26, 2004, the voting panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. After considering the evidentiary record and policy goals required by Tenn. Code Ann. § 65-4-123 regarding this agency's responsibility to foster competition in the telecommunications industry, the panel voted unanimously to approve BellSouth's request for expedited review and reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth is granted.
2. The Pooling Administrator's decision to deny BellSouth's request for additional numbering resources is reversed as stated herein.

⁷ *Third Report and Order*, ¶ 61

⁸ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis, that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another"); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F C C R 18,502, 2001 WL 1222428 (Oct. 15, 2001)

3. The Pooling Administrator is ordered to assign five (5) consecutive one-thousand blocks to BellSouth for the Memphis Rate Center, Switch Designation MMPHTNELDSO.

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Pat Miller, Chairman

A handwritten signature in black ink, appearing to read "Deborah Taylor Tate", written over a horizontal line.

Deborah Taylor Tate, Director

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director